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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,575	04/07/2004	Scott E. Moore	MI22-2493	8575

21567 7590 08/09/2007
WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

EXAMINER

PUNNOOSE, ROY M

ART UNIT	PAPER NUMBER
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2886

MAIL DATE	DELIVERY MODE
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08/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,575

Applicant(s)

MOORE ET AL.

Examiner

Roy M. Punnoose

Art Unit

2886

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21, 49-52, 59, 60, 63-69 and 71-81 is/are pending in the application.
- 4a) Of the above claim(s) 64 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21, 49-52, 59, 60, 63, 65-69 and 71-81 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Election with Traverse

1. The election of Group I, II and II and species of Group II with traverse filed by the applicant on 05/29/2007 is acknowledged and has been entered into the records. Claims 19-21,49-52,59,60,63-69 and 71-81 are currently pending in the application.
2. The applicant's traversal is on the ground(s) that all claims have been searched and therefore it is not a serious burden on the Examiner to examine all the claims together.

Examiner respectfully disagrees.

The full guidelines stated in the MPEP regarding search burden are set forth at 803, where the MPEP states: "For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP 808.02. At 808.02.(C), the MPEP states: "A different field of search: where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g. searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field' of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search."

As discussed in the restriction requirement, the application indeed contains more than one invention employing different fields of search and separate classifications.

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Moreover, the issue of burden merely plays a minor role for the basis to support the restriction requirement. Since it has been concluded that the pending application includes more than one separate distinctive and independent invention, the restriction is therefore proper.

In particular, it appears that applicant believes the issue of burden only arises from the search of prior art and examination of the application in determining the patentability of the claimed invention. However, applicant is respectfully reminded that conducting a search on application merely plays a small part of examining the invention. Burden may also arise from prosecuting multiple inventions in a single application. Such a type of prosecution merely leads to complication in patentability determination that may ultimately sacrifice the quality of patentability determination. In view of this reason, a restriction imposed is clearly proper.

The requirement is still deemed proper and is therefore made FINAL.

Applicant's arguments are not found persuasive. The election requirement is still deemed proper and is therefore made FINAL.

Ex parte Quayle

3. This application is in condition for allowance except for the following formal matters:

See numbered paragraph 4 below.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4. Non-elected claim 64 needs to be cancelled.

5. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

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Allowable Subject Matter

6. Claims 19-21,49-52,59,60,63, 65-69 and 71-81 have allowable subject matter.

Contact/Status Information

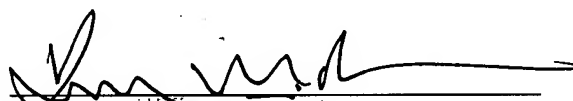
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tarifur Chowdhury** can be reached on **571-272-2287**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 24, 2007


Roy M. Punnoose
Primary Patent Examiner